

IN THE UNITED STATES DISTRICT COURT
FOR NEW JERSEY

File No. 43-12-001

COTTRELL SOLENSKY & SEMPLE, P.A.

550 Broad Street, Suite 1000

Newark, New Jersey 07102

Phone: (973) 643-1400

Fax: (973) 643-1900

Attorneys for Defendants, Steven Spencer and Merchants 5 Star, Inc.

EDWARD A. PANKOWSKI,

Plaintiff,

vs.

**MERCHANTS 5 STAR, INC., and
STEVEN SPENCER and JOHN DOES
1 through 5, aid names being
fictitious,**

Defendants.

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

PETITION FOR REMOVAL

Removing defendants, Steven Spencer and Merchants 5 Star, Inc., upon information and belief state as follows:

1. Plaintiff Edward A. Pankowski commenced an action against the removing defendants, Steven Spencer and Merchants 5 Star, Inc., in the Superior Court of New Jersey, Law Division, Middlesex County bearing docket number MID-L-7242-12.

2. The Complaint was served upon removing defendants, Steven Spencer and Merchants 5 Star, Inc., on November 19, 2012.

3. Plaintiff is a resident of the State of New Jersey.

4. Defendant Merchants 5 Star, Inc., is a corporation organized and existing under the law of the State of Ohio with an office and principle place of business located at 18192 State Route 7, Marietta, Ohio 45750.

5. Defendant Steven Spencer is a resident of the State of West Virginia.

6. The amount in controversy is more than \$75,000.00.

7. Accordingly, this court has diversity jurisdiction of this action pursuant to 28 U.S.C. Section 1332, and defendant is entitled to removal of this action pursuant to 28 U.S.C. Section 1441.

WHEREFORE, removing defendants hereby petition for the removal of plaintiffs' action to this court, pursuant to 28 U.S.C. sections 1441 and 1446.

COTTRELL SOLENSKY & SEMPLE, P.A.

Attorney for Defendants, Steven Spencer
and Merchants 5 Star, Inc.,

/s/FLOYD G. COTTRELL (7820)

Dated: December 3, 2012

COTTRELL SOLENSKY & SEMPLE, P.A.

550 Broad Street, Suite 1000

Newark, New Jersey 07102

Phone: (973) 643-1400

Fax: (973) 643-1900

Attorneys for Defendants, Steven Spencer and Merchants 5 Star, Inc.

EDWARD A. PANKOWSKI,

Plaintiff,

vs.

**MERCHANTS 5 STAR, INC., and
STEVEN SPENCER and JOHN DOES
1 through 5, aid names being
fictitious,**

Defendants.

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY**

CIVIL ACTION NO.

NOTICE OF REMOVAL

To: Middlesex County Superior Court
56 Paterson St.
New Brunswick, NJ 08903-0964

David K. Chazen, Esq.
Chazen & Chazen, LLC
346 Grand Avenue
Englewood, New Jersey 07631

SIRS:

PLEASE TAKE NOTICE that annexed hereto is a true copy of the Petition for Removal which was filed in this action in the United States District Court for the District of New Jersey pursuant to 28 U.S.C. Sections 1441 and 1446 on December 3, 2012.

PLEASE TAKE FURTHER NOTICE, that said filing, together with the filing and service of this Notice, has effected the removal of this action to the United States District Court for District of

New Jersey pursuant to 28 U.S.C. Section 1446, and no further proceedings with respect to this action can take place in this Court.

Attached hereto as **Exhibit A** is a true and correct copy of all pleadings and process filed in this action in the Superior Court of Middlesex County, New Brunswick, New Jersey, under docket number MID-L-7242-12. This Notice of Removal is being concurrently filed with the Superior Court of Middlesex County, New Brunswick, New Jersey. A copy of this application in its entirety is being forward to the law offices of Chazen & Chazen, LLC., 346 Grand Avenue, Englewood, New Jersey 07631.

WHEREFORE, defendants pray that this civil action be removed to this Court from the Superior Court of Middlesex, New Brunswick, New Jersey.

COTTRELL SOLENSKY & SEMPLE, P.A.

Attorney for Defendants, Steven Spencer
and Merchants 5 Star, Inc.,

/s/FLOYD G. COTTRELL (7820)

Dated: December 3, 2012

EXHIBIT "A"

1 CHAZEN & CHAZEN, LLC
2 346 GRAND AVENUE, P.O. BOX 470
3 ENGLEWOOD, NEW JERSEY 07631
4 (201) 567-5500

5 ATTORNEYS FOR PLAINTIFF

6
7 EDWARD A. PANKOWSKI : SUPERIOR COURT OF NEW JERSEY
8 Plaintiff, : LAW DIVISION - MIDDLESEX COUNTY
9 Vs. : DOCKET NO.: MID-L-
10 MERCHANTS 5 STAR, INC. and STEVEN : CIVIL ACTION MID-L- 7 2 4 2 1 2
11 SPENCER and JOHN DOES 1 through 5, :
12 said names being fictitious : COMPLAINT (AUTO/TRUCK)
13 Defendants. : PLAINTIFF DEMANDS JURY TRIAL
14

15 The Plaintiff, EDWARD A. PANKOWSKI, residing at 165 Strawberry Hill Avenue,
16 Woodbridge, New Jersey 07095, by way of Complaint, says:

- 17 1. On or about May 15, 2012, at approximately 1:08 PM, the Plaintiff, EDWARD A.
18 PANKOWSKI, was the seat belted operator of a private passenger vehicle traveling south on US
19 Highway 1 in Woodbridge NJ and was stopped with other traffic for a red light located at the
20 intersection of Gills Lane and US Highway 1.
- 21 2. At the same time and location, the Defendant MERCHANTS 5 STAR, INC. was the owner of
22 a 2006 Volvo tractor trailer truck being operated by it's servant, agent or employee, the
23 Defendant STEVEN SPENCER, who was in the course of his employment for the Defendant
24 MERCHANTS 5 STAR, INC., that was traveling southbound on US Highway 1 in Woodbridge,
25 New Jersey and, suddenly and without warning, violently collided into the rear of Plaintiff's
26 vehicle, causing it to violently collide into the vehicle stopped in front of Plaintiff's vehicle and
27 causing a chain of violent collisions involving a total of six (6) vehicles.
- 28 3. The tractor trailer truck owned by the Defendant MERCHANTS 5 STAR, INC. and being

1 operated by the Defendant STEVEN SPENCER was operated negligently and failed to observe
2 the Plaintiff's vehicle, maintain a safe distance, and stop, causing it to collide with the vehicle
3 occupied by the Plaintiff with great force and violence.

4 4. The Defendants, JOHN DOES 1 through 5, said names being fictitious, is a person or persons
5 who may have negligently contributed to the happening of this accident.

6 5. As a result of the negligence of the Defendants, the Plaintiff EDWARD A. PANKOWSKI was
7 violently tossed about, sustained injuries causing temporary and permanent disability,
8 disfigurement, and loss of bodily function and loss of body member in whole or in part, has
9 incurred or in the future will incur expenses for the treatment of said injuries, has been disabled
10 and in the future will be disabled and not able to perform his usual functions and has been caused
11 and in the future will be caused great pain and suffering and has impaired his earning capacity
12 and enjoyment of life.

13 **WHEREFORE**, the Plaintiff, EDWARD A. PANKOWSKI, demands judgment against the
14 Defendants, MERCHANTS 5 STAR, INC., STEVEN SPENCER and JOHN DOES 1 through 5, said
15 names being fictitious, jointly and severally, for damages, together with interest, costs of suit and for
16 such further relief as the Court deems equitable and just.

17
18 JURY DEMAND

19 Please take notice that demand is hereby made for trial by jury on all issues so triable.
20

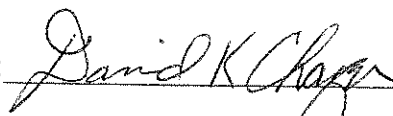
21 DESIGNATION OF TRIAL COUNSEL

22 Pursuant to R. 4:25-04, David K. Chazen, Esq. is designated as Trial Counsel.
23

24 CHAZEN & CHAZEN, LLC

25 Attorneys for Plaintiff

26
27 Dated: October 17, 2012

28 By: 
David K. Chazen

CERTIFICATION - R. 4:5-1

I hereby certify that the matter in controversy is not the subject of any other action pending in any Court or arbitration proceeding and no such other action or arbitration proceeding is contemplated.

I further certify that all known parties are named in this action, but I reserve the right to amend this pleading should any other persons become known to me.

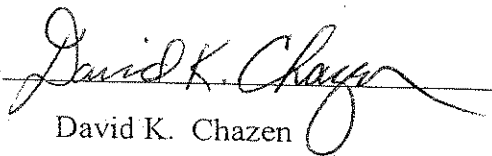
I certify that the foregoing statements made by me are true. I am aware that if any of the statements made by me are false, I am subject to punishment.

CHAZEN & CHAZEN, LLC



Attorneys for Plaintiff

Dated: October 17, 2012

By:


David K. Chazen

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule</i> 4:5-1 Pleading will be rejected for filing, under <i>Rule</i> 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. AMOUNT: 22 A 9-15 OVERPAYMENT: BATCH NUMBER:	
	ATTORNEY/PRO SE NAME DAVID K. CHAZEN		TELEPHONE NUMBER (201) 567-5500	
	FIRM NAME (if applicable) CHAZEN & CHAZEN, LLC		COUNTY OF VENUE Bergen <i>Middlesex (per Florida Tabares)</i>	
	OFFICE ADDRESS 346 GRAND AVENUE ENGLEWOOD, NEW JERSEY 07631		DOCKET NUMBER (when available) MID-L- 7242 12	
			DOCUMENT TYPE COMPLAINT (AUTO/TRUCK) JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
NAME OF PARTY (e.g., John Doe, Plaintiff) EDWARD A. PANKOWSKI, PLAINTIFF		CAPTION EDWARD A. PANKOWSKI, PLAINTIFF VS. MERCHANTS 5 STAR, INC. and STEVEN SPENCER AND JOHN DOES 1 THROUGH 5, SAID NAMES BEING FICTITIOUS, DEFENDANTS		
CASE TYPE NUMBER (See reverse side for listing) 603N		IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) MAXUM SPECIALTY INSURANCE GROUP <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule</i> 1:38-7(b).				
ATTORNEY SIGNATURE: <i>David K Chazen</i>				

COURT TELEPHONE NO. (732) 519-3728
COURT HOURS

TRACK ASSIGNMENT NOTICE

DATE: OCTOBER 25, 2012
RE: PANKOWSKI EDWARD MARCHANTS 5 STAR INC
DOCKET: MID L -007242 12

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 2.

DISCOVERY IS 300 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON HEIDI W. CURRIER

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002
AT: (732) 519-3737 EXT 3737.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: DAVID K. CHAZEN
CHAZEN & CHAZEN
346 GRAND AVE
PO BOX 470
ENGLEWOOD NJ 07631-4355

JUMUCC1

SUPERIOR COURT OF NEW JERSEY
Middlesex County Courthouse
P.O. Box 964
New Brunswick, New Jersey 08903-0964

GREGORY EDWARDS
Trial Court Administrator

JOHN PUSKO, ESQ.
Civil Division Manager



CHERYL WILLIAMS
Assistant Civil Division Manager

IAN RATZLIFF
Assistant Civil Division Manager

ACMS IS NOW ON LINE!

The New Jersey Superior Court Civil Case Docket, including scheduling, document index, and attorney lists, are now available on line. This new application may save you much time in doing case inquiry in the Law, General Equity, and Special Civil Part.

Follow the following steps to access your case records;

1. Go to www.nicourtsonline.com. On the first page, on the right-hand side;
2. Select "Civil Case Public Access;"
3. Disable your computer's pop-up blocker;
4. Type in the characters you see in the "Security" box and accept the conditions of use;
5. Select the criteria by which you need to search—by docket, case name, or use additional searches for archival records;
6. For a docket search, select the county, the docket type, the docket number, the year, then from the right-hand column under "view Details," select your search criteria;
7. Select the record you seek;
8. If the index is more than 1 page, select the Page Down Arrow from the top center of your screen; and
9. When you have reached end of your record, you can go back by clicking on the Return Arrow on the top left-hand side of your screen. You can use the icons next that to zoom, print, or E-mail your record.